UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

TRIAL OF CLASS 2 AND 3 CLAIMS	,
01-CV-12257-PBS and 01-CV-339)
THIS DOCUMENT RELATES TO)
) Judge Patti B. Saris
IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION)) MDL No. 1456)

TRACK 1 DEFENDANTS' OPPOSITION TO PLAINTIFFS' SUPPLEMENTAL **REQUEST FOR ADMISSION OF TRIAL EXHIBITS**

On January 19, 2007 – a month after evidence in the Track 1 trial concluded and the same day that post-trial submissions were due to be filed – Plaintiffs filed a request for admission of forty-four new exhibits. This request is not only untimely, but also prejudicial to the Track 1 Defendants, who did not have the opportunity to consider these exhibits as part of the trial record prior to submitting final proposed findings of fact and post-trial memoranda of law. Plaintiffs, on the other hand, cite most, if not all, of these new exhibits as support for their proposed findings of fact. On this ground alone, Plaintiffs' request should be denied in its entirety. In addition, any proposed findings of fact relying on these documents should be stricken.

If the Court does not deny Plaintiffs' request in its entirety, the Track 1 Defendants respectfully request the opportunity to submit objections to these documents. In addition, the Track 1 Defendants also request the opportunity, if necessary, to request admission of additional counter-exhibits to ensure that the trial record is complete.

The Track 1 Defendants

Respectfully submitted,

THE FOLLOWING TRACK 1 DEFENDANTS

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Dated: January 26, 2007

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered on January 26, 2007 to counsel for plaintiffs and to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, via LexisNexis File & Serve.

By: /s/ Katherine B. Schmeckpeper

Katherine B. Schmeckpeper